

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 68335 / December 3, 2012

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 3426 / December 3, 2012

ADMINISTRATIVE PROCEEDING  
File No. 3-15116

In the Matter of

BDO China Dahua CPA Co., Ltd.;  
Ernst & Young Hua Ming LLP;  
KPMG Huazhen (Special General  
Partnership);  
Deloitte Touche Tohmatsu Certified  
Public Accountants Ltd.;  
PricewaterhouseCoopers Zhong Tian  
CPAs Limited

Respondents.

ORDER INSTITUTING  
ADMINISTRATIVE PROCEEDINGS  
PURSUANT TO RULE 102(e)(1)(iii) OF  
THE COMMISSION'S RULES OF  
PRACTICE AND NOTICE OF  
HEARING

**ANSWER OF RESPONDENT BDO CHINA DAHUA CPA CO., LTD.  
TO ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS**

*Respondent BDO China Dahua CPA Co., Ltd. ("BDO China") submits this Answer in response to the Order Instituting Administrative Proceedings issued by the U.S. Securities and Exchange Commission ("SEC" or "the Commission") on December 3, 2012 (the "OIP"). BDO China denies all allegations of the OIP except as otherwise indicated below.*

**I.**

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative proceedings be, and hereby are, instituted pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice against BDO China Dahua CPA Co., Ltd.; Ernst & Young Hua Ming LLP; KPMG Huazhen (Special General Partnership), Deloitte Touche Tohmatsu Certified Public Accountants Ltd.; and PricewaterhouseCoopers Zhong Tian CPAs Limited (collectively "Respondents").<sup>1</sup>

<sup>1</sup> Rule 102(e)(1)(iii) provides, in pertinent part, that:

*Answer to Section I: BDO China admits that the Commission has instituted proceedings against BDO China pursuant to Rule 102(e)(1)(iii), but denies the remainder of Section I.*

## II.

The Division of Enforcement alleges that:

### A. RESPONDENTS

1. **BDO China Dahua CPA Co., Ltd.** ("BDO China") is located in Beijing, China, and is a PCAOB-registered member firm of BDO International Limited, a UK company limited by guarantee. BDO China audited the financial statements of an issuer client ("Client A") for the fiscal years ended December 31, 2010 and 2011.

*Answer to paragraph 1: BDO China admits that it has an office in Beijing, China, is a public accounting firm, registered with the Public Company Accounting Oversight Board (United States) ("PCAOB"), that BDO China is a member firm in the network of independent firm members of BDO International Limited, a UK company limited by guarantee, and that it audited the financial statements of an issuer client, Client A, for the fiscal years ended December 31, 2010 and 2011. BDO China denies the remaining allegation of paragraph 1.*

2. **Ernst & Young Hua Ming LLP** (formerly known as Ernst & Young Hua Ming Certified Public Accountants) ("E&Y Beijing") is located in Beijing, China, and is a PCAOB-registered member firm of Ernst & Young Global Limited, a UK private company limited by guarantee. E&Y Beijing was engaged to audit the financial statements of an issuer client ("Client B") for the fiscal year ended December 31, 2010 and another issuer client ("Client C") for the fiscal years ended September 30, 2010 and 2011.

*Answer to paragraph 2. Paragraph 2 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 2, and therefore denies them.*

3. **KPMG Huazhen (Special General Partnership)** (formerly known as KPMG Huazhen) ("KPMG Beijing") is located in Beijing, China, and is a PCAOB-registered member firm of KPMG International Cooperative ("KPMG"), a Swiss entity. KPMG Beijing substantially assisted a KPMG affiliate in auditing the financial statements of an issuer client ("Client D") for the fiscal year ended December 31, 2010, another issuer client ("Client E") for the fiscal year ended December 31, 2010, and another issuer client ("Client F") for the fiscal years ended December 31, 2008, 2009 and 2010.

*Answer to paragraph 3. Paragraph 3 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO*

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The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

*China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 3, and therefore denies them.*

4. **Deloitte Touche Tohmatsu Certified Public Accountants Ltd. ("DTTC")** is located in Shanghai, China, and is a PCAOB-registered member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee. DTTC was engaged to audit the financial statements of an issuer client ("Client G") for the fiscal year ended June 30, 2010.

*Answer to paragraph 4. Paragraph 4 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 4, and therefore denies them.*

5. **PricewaterhouseCoopers Zhong Tian CPAs Limited ("PwC Shanghai")** is located in Shanghai, China, and is a PCAOB-registered member firm of PricewaterhouseCoopers International Limited, a UK private company limited by guarantee. PwC Shanghai was engaged to audit the financial statements of an issuer client ("Client H") for the fiscal year ended December 31, 2010 and another issuer client ("Client I") for the fiscal year ended December 31, 2010.

*Answer to paragraph 5. Paragraph 5 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 5, and therefore denies them.*

6. The Division of Enforcement has ongoing fraud investigations concerning Clients A, B, C, D, E, F, G, H, and I, each of which is a U.S. issuer whose securities were registered with the Commission and whose principal operations were based in the People's Republic of China.

*Answer to paragraph 6. Paragraph 6 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China admits that Client A is a U.S. Issuer and its principal operations are based in the People's Republic of China. BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations of paragraph 6, and therefore denies them.*

7. This action stems from Respondents' willful refusal, in response to Commission requests, to provide the Commission with audit workpapers and other materials prepared in connection with audit work or interim reviews performed for Clients A, B, C, D, E, F, G, H, and I, in contravention of their legal obligations as foreign public accounting firms.

*Answer to paragraph 7. BDO China denies the allegations of paragraph 7 to the extent that paragraph 7 relates to BDO China, and otherwise refers to the responses of the other Respondents with respect to the remainder of the allegations in paragraph 7.*

8. On February 1, 2012, pursuant to Section 106 of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), as amended by Section 929J of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Section 106"), the Commission served BDO China, through its designated U.S. agent for service of Section 106 requests, with a request for

"[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client A]" for the fiscal year ended December 31, 2010.

*Answer to paragraph 8. BDO China denies the allegations of paragraph 8, except admits that the Staff sent a letter, dated February 1, 2012, addressed to "BDO China Li Xin Da Hua c/o Barbara Taylor, Esq. BDO USA LLP" requesting that BDO China Li Xin Da Hua produce "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client A] for the fiscal year ending December 31, 2010" (the "February 1, Request") and that the February 1 Request stated that the request was "pursuant to Section 106 of the Sarbanes-Oxley Act of 2002 and Section 929J of the Dodd-Frank Wall Street Reform and Consumer Protection Act."*

9. On April 26, 2012, pursuant to Section 106, the Commission served E&Y Beijing, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client B]" for the fiscal year ended December 31, 2010.

*Answer to paragraph 9. Paragraph 9 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 9, and therefore denies them.*

10. On February 2, 2012, pursuant to Section 106, the Commission served E&Y Beijing, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client C]" for the fiscal years ended September 30, 2010 and 2011.

*Answer to paragraph 10. Paragraph 10 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 10, and therefore denies them.*

11. On February 6, 2012, pursuant to Section 106, the Commission served KPMG Beijing, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client D]" for the fiscal year ended December 31, 2010.

*Answer to paragraph 11. Paragraph 11 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 11, and therefore denies them.*

12. On February 9, 2012, pursuant to Section 106, the Commission served KPMG Beijing, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client E]" for the fiscal year ended December 31, 2010.

*Answer to paragraph 12. Paragraph 12 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 12, and therefore denies them.*

13. On February 3, 2012, pursuant to Section 106, the Commission served KPMG Beijing, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit reports issued, audit work performed, or interim reviews conducted for [Client F]" for the fiscal years ended December 31, 2008, 2009, and 2010.

*Answer to paragraph 13. Paragraph 13 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 13, and therefore denies them.*

14. On February 14, 2012, pursuant to Section 106, the Commission served DTTC, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client G]" for the fiscal year ended June 30, 2010.

*Answer to paragraph 14. Paragraph 14 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 14, and therefore denies them.*

15. On February 8, 2012, pursuant to Section 106, the Commission served PwC Shanghai, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client H]" for the fiscal year ended December 31, 2010.

*Answer to paragraph 15. Paragraph 15 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 15, and therefore denies them.*

16. On February 16, 2012, pursuant to Section 106, the Commission served PwC Shanghai, through its designated U.S. agent for service of Section 106 requests, with a request for "[a]ll audit work papers and all other documents related to any audit work performed for [Client I]" for the fiscal year ended December 31, 2010.

*Answer to paragraph 16. Paragraph 16 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 16, and therefore denies them.*

17. Each of the Respondents has informed the Commission that it will not produce the documents to the Commission as requested in the Section 106 requests because, among other things, Respondents interpret the law of the People's Republic of China as prohibiting Respondents from doing so.

*Answer to paragraph 17: BDO China denies the allegations of paragraph 17 to the extent they relate to BDO China and avers that it requested authorization from the government of the People's Republic of China ("PRC") to produce to the SEC the documents described in the February 1 Request, that the PRC government advised BDO China that it could not provide the requested documents directly to the SEC due to Chinese law, that BDO China made*

*subsequent requests of the PRC government for permission to provide the documents to the SEC, and that to date the PRC government has declined to provide permission to BDO China to produce the documents sought in the February 1 Request directly to the SEC. BDO China informed the Staff that it would be unable to produce the documents directly to the Commission because, among other reasons, PRC law prohibits BDO China from producing audit work papers and other documents related to the audit work at issue directly to the Commission without the consent of the relevant PRC authorities, that the PRC authorities had expressly reiterated that no such documents could be produced to the Commission without their permission, which has not been provided, and that producing the documents without PRC government permission would subject BDO China and its employees to serious civil and criminal liability in the PRC. To the extent a further response is deemed required, BDO China refers to the responses of other Respondents with respect to the remainder of the allegations in paragraph 17.*

18. As of the date of this Order, the Commission does not have possession of the audit workpapers and other relevant documents sought in any of the Section 106 requests.

*Answer to paragraph 18: Paragraph 18 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 18, and therefore denies them.*

19. Section 106(b) of Sarbanes-Oxley directs a foreign public accounting firm that "issues an audit report, performs audit work, or conducts interim reviews" to "produce the audit workpapers of the foreign public accounting firm and all other documents of the firm related to any such audit work or interim review" to the Commission upon request.

*Answer to paragraph 19: Paragraph 19 states a legal conclusion to which no response is required. To the extent a further response is deemed required, BDO China respectfully refers the Administrative Law Judge to Section 106 for its full contents.*

20. A willful refusal to comply, in whole or in part, with a request by the Commission under Section 106 is a violation of Sarbanes-Oxley. See Section 106(e).

*Answer to paragraph 20: Paragraph 20 states a legal conclusion to which no response is required. To the extent a further response is deemed required, BDO China respectfully refers the Administrative Law Judge to Section 106 for its full contents.*

21. A violation of Sarbanes-Oxley constitutes a violation of the Securities Exchange Act of 1934 ("Exchange Act"). See Sarbanes-Oxley Section 3(b)(1).

*Answer to paragraph 21: Paragraph 21 states a legal conclusion to which no response is required. To the extent a further response is deemed required, BDO China respectfully refers the Administrative Law Judge to Section 3 for its full contents.*

22. BDO China has willfully refused to provide the Commission with its audit workpapers and all other documents relating to BDO China's audit or interim review work for Client A.

*Answer to paragraph 22: BDO China denies the allegations of paragraph 22. Specifically, BDO China has not acted with the requisite intent to violate the law, which is an essential component of "willful" behavior as that term is used in Rule 102(e) and Section 106(e).*

23. E&Y Beijing has willfully refused to provide the Commission with its audit workpapers and all other documents relating to E&Y Beijing's audit or interim review work for Client B.

*Answer to paragraph 23. Paragraph 23 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 23, and therefore denies them.*

24. E&Y Beijing has willfully refused to provide the Commission with its audit workpapers and all other documents relating to E&Y Beijing's audit or interim review work for Client C.

*Answer to paragraph 24. Paragraph 24 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 24, and therefore denies them.*

25. KPMG Beijing has willfully refused to provide the Commission with its audit workpapers and all other documents relating to KPMG Beijing's audit or interim review work for Client D.

*Answer to paragraph 25. Paragraph 25 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 25, and therefore denies them.*

26. KPMG Beijing has willfully refused to provide the Commission with its audit workpapers and all other documents relating to KPMG Beijing's audit or interim review work for Client E.

*Answer to paragraph 26. Paragraph 26 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 26, and therefore denies them.*

27. KPMG Beijing has willfully refused to provide the Commission with its audit workpapers and all other documents relating to KPMG Beijing's audit or interim review work for Client F.

*Answer to paragraph 27. Paragraph 27 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 27, and therefore denies them.*

28. DTTC has willfully refused to provide the Commission with its audit workpapers and all other documents relating to DTTC's audit or interim review work for Client G.

*Answer to paragraph 28. Paragraph 28 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 28, and therefore denies them.*

29. PwC Shanghai has willfully refused to provide the Commission with its audit workpapers and all other documents relating to PwC Shanghai's audit or interim review work for Client H.

*Answer to paragraph 29. Paragraph 29 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 29, and therefore denies them.*

30. PwC Shanghai has willfully refused to provide the Commission with its audit workpapers and all other documents relating to PwC Shanghai's audit or interim review work for Client I.

*Answer to paragraph 30. Paragraph 30 contains no allegations directed to BDO China and therefore no response is required. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 30, and therefore denies them.*

31. As such, Respondents have each willfully violated Section 106 of Sarbanes-Oxley and therefore also the Exchange Act.

*Answer to paragraph 31: BDO China denies the allegations of paragraph 31 to the extent that they relate to BDO China. To the extent a further response is deemed required, BDO China lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of paragraph 31 as they relate to other Respondents, and therefore denies them.*

32. As a result of the conduct described above, it is appropriate that this proceeding be brought pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice to determine whether Respondents should be censured or denied the privilege of appearing and practicing before the Commission for having willfully violated Section 106 of Sarbanes-Oxley.

*Answer to paragraph 32: BDO China denies the allegations of paragraph 32 to the extent that they relate to BDO China. To the extent that a further response is required, BDO China refers to the responses of the other Respondents with respect to the remainder of the allegations in paragraph 32.*

### III.

In view of the allegations made by the Division of Enforcement, the Commission deems it appropriate and in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth above are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate against Respondents pursuant to Rule 102(e)(1)(iii) of Commission's Rules of Practice.

*Answer to Section III: Section III requires no response. To the extent a response is deemed required, BDO China denies all allegations in Section III to the extent that they relate to*

*BDO China, including that administrative proceedings are appropriate. BDO China further alleges that the enforceability of a Section 106 request may be determined only by a federal court, that the Commission has not sought a judicial determination of the enforceability of any Section 106 request to BDO China, and that no federal court has deemed enforceable the Commission Staff's Section 106 Requests issued in this matter, in whole or in part, to BDO China regarding Client A.*

#### IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that each Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If any Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, such Respondent may be deemed in default and the proceedings may be determined against such Respondent upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

Under the authority conferred by Rule 141(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.141(a)(2), this Order shall be served upon Respondents through the respective domestic registered public accounting firms or other United States agents that Respondents have designated for service under Section 106(d) of Sarbanes-Oxley, 15 U.S.C. § 7216(d), or by any other method reasonably calculated to give notice to a Respondent, provided that the other method of service used is not prohibited by the law of the foreign country in which the Respondent is located.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

*Answer to Section IV: Section IV requires no response. To the extent a response is deemed required, BDO China denies all allegations in Section IV insofar as they are directed to BDO China, and otherwise refers to the responses of the other Respondents as to the allegations in Section IV insofar as they are not directed to BDO China.*

## Defenses and Affirmative Defenses

*BDO China asserts the following separate, affirmative defenses to the OIP. In so doing, BDO China does not assume the burden of production or proof with respect to any fact or proposition necessary to that affirmative defense where the burden of production and/or proof is properly imposed on the Division. The absence of any other applicable defense or affirmative defense is not intended to, nor should it be construed to, waive such defense or affirmative defense. BDO China reserves the right to modify, revise, and/or supplement this Answer and these defenses and affirmative defenses to the maximum extent permitted by law and applicable procedure.*

1. *Under the plain language of Section 106, there is no subject matter and/or personal jurisdiction over BDO China with respect to this proceeding and thus, this matter cannot be adjudicated in this forum.*
2. *The OIP was not properly served on BDO China.*
3. *The OIP fails to state a claim upon which relief may be granted.*
4. *This proceeding is not warranted by the facts and, in any event, is unsupported by substantial evidence.*
5. *This proceeding violates BDO China's constitutional rights, including BDO China's rights to due process and equal protection.*
6. *This proceeding violates BDO China's due process rights to the extent that it does not allow the opportunity for appropriate pre-hearing discovery or to compel the appearance or testimony of witnesses in BDO China's defense at the hearing of this matter.*
7. *This proceeding constitutes arbitrary and capricious agency action, including under the Administrative Procedure Act.*
8. *This proceeding is unlawful, improper and unwarranted because there has been no judicial determination regarding the enforceability of the Commission Staff's Section 106 Request to BDO China.*
9. *This proceeding is an improper use of the 102(e) process because BDO China and the other Respondents are being singled out for selective prosecution.*
10. *This proceeding is unlawful, improper and unwarranted because BDO China has not "willfully" violated securities laws in that it has not acted with the requisite intent to violate the law, which is an essential component of "willful" behavior as that term is used in Rule 102(e) and Section 106(e).*
11. *This proceeding is unlawful, improper and unwarranted because BDO China acted in good faith and in compliance with Chinese law and because BDO China is unable to comply with the February 1 request because of Chinese law and directives of the Chinese government.*
12. *This proceeding is improper because the Division's allegations are inconsistent with the cooperative framework for obtaining documents from foreign jurisdictions as set forth in the Multilateral Memorandum of Understanding of the International Organization of Securities Commissions, to which both the SEC and Chinese Securities Regulatory Commission ("CSRC") are members.*

13. *This proceeding is improper because the Division's allegations are inconsistent with the SEC's publicly-stated approach and long-standing policy and practice to resolve issues of access to audit work papers and other such documents located in foreign jurisdictions through diplomatic negotiations.*

14. *Sanctions against BDO China would be inappropriate based on the conduct alleged in the OIP because BDO China did everything within its legal ability to cooperate with the Staff and to accommodate the Staff's requests for information relating to Client A, including seeking permission from the PRC government and regulatory authorities to produce the requested information to the Commission, which permission was denied.*

15. *Sanctions against BDO China would be inappropriate because BDO China is willing to produce the requested documents to the CSRC consistent with Section 106(f)'s provision for alternate means of production. 15 U.S.C. §7216(f)*

16. *Sanctions against BDO China would be unlawful and inappropriate based on the conduct alleged in the OIP and contrary to the public interest and any sanctions would not be remedial.*

17. *Sanctions against BDO China would be inappropriate based on the conduct alleged in the OIP because such sanctions would be inconsistent with principles of international comity.*

18. *Sanctions against BDO China would be inappropriate based on the conduct alleged in the OIP because BDO China and its personnel face the real prospect of criminal and civil sanctions in the PRC if it complies with the Commission Staff's Section 106 Requests. Equity requires that BDO China not be sanctioned domestically for being caught between diplomatic negotiations of two regulators.*

19. *The SEC lacks the authority to require the production of documents from BDO China prior to the enactment of the Dodd-Frank Act on July 21, 2010 and its amendments to Section 106.*

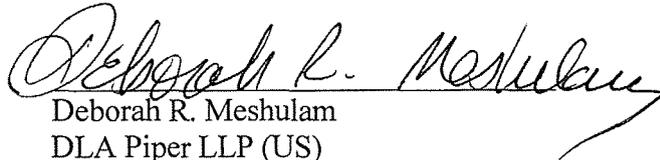
20. *The SEC may not sanction BDO China based on PRC legal impediments because (i) BDO China consented in its registration with the Public Company Accounting Oversight Board only to produce documents to the extent permitted by PRC and any other applicable laws; and (ii) BDO China consented in its designation of an agent under Section 106 only to the extent permitted by applicable law of the PRC.*

21. *Sanctions against BDO China would be unlawful based on the conduct alleged in the OIP and the facts of this case because federal case law dictates that firms in analogous circumstances should not be sanctioned for their inability to comply with requests from U.S. regulators.*

22. *Any alleged inability by the SEC to obtain the requested documents is the result of the inability of the SEC to negotiate acceptable international agreements with the appropriate PRC authorities, not any refusal, willful or otherwise, to produce documents by BDO China.*

Dated: January 7, 2013

Respectfully submitted,



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